

ONEIDA COUNTY PLANNING & ZONING
APRIL 19, 2006
12:30 P.M. – COMMITTEE ROOM #2
1:00 P.M. REGULAR MEETING – COMMITTEE ROOM #2
2ND FLOOR, ONEIDA COUNTY COURT HOUSE

Members present: Chairman Bob Metropulos
Scott Holewinski
Larry Greschner
Ted Cushing

Department staff present: Karl Jennrich, Zoning Director
Pete Wegner, Assistant Zoning Director
Steve Osterman, Planning Manager
Kurt Bloss, Land Use Specialist
Mary Bartelt, Typist III

Other County Staff: Larry Heath, Corporation Counsel
Brian Desmond, Assistant Corporation Counsel

See Attached Guest List:

Call to order.

Chairman Metropulos called the meeting to order at 12:30 P.M., in accordance with the Wisconsin Open Meeting Law.

Discussion/decision to approve the agenda.

MOTION: (Ted Cushing/Larry Greschner) to approve the April 19, 2006 agenda. With all members present voting “aye” motion carries.

It is anticipated that the Committee may meet in Closed Session pursuant to Wisconsin Statutes, Section 19.85 (1)(g), conferring with legal counsel concerning strategy to be adopted by the governmental body with respect to litigation in which it is or is likely to become involved. A roll call vote will be taken to go into closed session.

MOTION: (Ted Cushing/Scott Holewinski) to enter into Closed Session, Roll Call Vote: Scott Holewinski “aye”, Larry Greschner “aye”, Ted Cushing “aye”, Bob Metropulos “aye”, motion carries.

Time: 12.37 P.M.

A roll call vote will be taken to return to open session

MOTION: (Ted Cushing/Scott Holewinski) to return to open session. Roll Call Vote: Scott Holewinski “aye”, Larry Greschner “aye”, Ted Cushing “aye”, Bob Metropulos “aye”, motion carries.

Time: 1:05 P.M.

For the record, the Committee conferred with legal counsel regarding possible litigation.

Discussion/decision to approve meeting minutes of March 29, 2006.

MOTION: (Ted Cushing/Scott Holewinski) to postpone approving until Mr. Greb is in attendance and for committee review prior to the next meeting. All “aye” on voice vote. Motion carries.

Discussion/decision involving the preliminary 2-lot subdivision of Bruce & Kathy Kelley on property described as part of the NW SW, Section 20, T37N, R9E, in the Town of Pine Lake, PIN# PL 470. This is an access review only.

This was previously denied. Mr. Steve Osterman, Planning Manager, stated that because the lots are bigger than 5 acres, the P & Z review is only limited to access, those are exempt from the full blown review and the only thing P & Z can regulate is the ingress, egress out to the main road. (Aberdeen Road) Therefore, the Kelley's proposed a 66' wide easement across the North end of Hwy. 17. There are little or no wetlands across the proposed easement road and unimproved vacant lands in the background.

Mr. Holewinski questions as to who would own the easement if Mr. Kelley sells off the parcels.

The easement road will remain a private easement road and if each lot sells the owners will own a portion of the easement.

The only concern, which the Town of Pine Lake has, is that the easement road cannot be a town road because the two acre lot would be less than two acres, but what could be done is if Mr. Kelley did any future subdividing there would have to be a town road or access from Forest Lane (in the corner). The Town of Pine Lake approved with a disclaimer that the easement road never could be deeded to the Town of Pine Lake for town road purposes.

Staff recommends approval subject to the easement being included on the final CSM map.

MOTION: (Ted Cushing/Larry Greschner) to approve the preliminary 2-lot subdivision of Bruce & Kathy Kelley, Item #6 of today's agenda with concerns as outlined by staff. All “aye” on voice vote, motion carries.

Discussion/decision concerning Birch Trail Condominium conversion, Dale Falesch, on property described as part of Gov't Lot 5, Section 4, T39N, R4E, in the Town of Minocqua.

Kim Rein, Wilderness Surveying, stated that the only problem that there was, was the parking and therefore the parking was turned around from the first version and also the 75' setback was put into the second version.

Kurt Bloss, Land Use Specialist, presented the preliminary 2-lot subdivision of Bruce and Kathy Kelley to the committee. The property is zoned Single Family and is an existing resort. Proposed is a 6-unit condo conversion. Unit 6 has a relatively new septic. Units 4 & 5 are in the mid eighties and Units 1 through 3 have no information. The area within the circle drive has all been soil tested and is suitable for a conventional septic. The Town Board of Minocqua reviewed and approved without any conditions.

Staff recommends approval based on these conditions placed on the final plat:

1. Placement of piers to conform to local and state regulations to be stated on the final.
2. Septic evaluation be required for Units 1 through 3
3. Units 1 through 6 be labeled as legal pre-existing structures on the final
4. Subject to Planning Commission and Town Board approval, which both have been obtained

5. Condo decks to be submitted to the P & Z Department for review prior to recording
6. Any future amendments to be reviewed and approved prior to recording

MOTION: (Scott Holewinski/Ted Cushing) to approve the Birch Trail Condominium conversion, Item #7 on today's agenda, with staff concerns. All "aye" on voice vote, motion carries.

Discussion/decision involving a preliminary 2-lot subdivision of the Handrick Trust property on Bullhead Lake and being further described as part of Gov't Lot 3, Section 11, T39N, R6E, in the Town of Minocqua.

Kurt Bloss, Land Use Specialist, presented the preliminary 2-lot subdivision of the Handrick Trust property to the committee. The property is zoned Single Family/Residential and is on city water and sewer. The Town Board and Planning Commission of the Town of Minocqua approved this preliminary 2-lot subdivision. Lot size modification requirement will be used per the ordinance because the square footage proposed on the lake lot is under the required per Class 1 lake, however, a one time exemption for one lot to be created is allowed. There will be a lien to removed on the off water lot and the asphalt driveway serving Lot #1 will be relocated to being entirely on Lot #1. Out lot #1 will be combined with the North parcel essentially for access.

Staff recommends approval of the essential 3-lot subdivision with these conditions:

1. Lot size modification language be stated on the final plat map
2. Subject to the Town of Minocqua approval
3. Lien to to be removed on Lot #2 within twelve months of final
4. Existing paved driveway to be relocated on Lot#1 within twelve months
5. Out lot #1 to be permanently combined with parcel to the North
6. Home on Lot #1 to be noted as a legal pre-existing on the final

MOTION: (Larry Greschner/Ted Cushing) to approve the preliminary 2-lot subdivision of the Handrick Trust property, Item #8 on today's agenda, with listed conditions. All "aye" on voice vote, motion carries.

Discussion/decision concerning amending Section 9.55 Adult Oriented Business Ordinance within the Oneida County Ordinance and Shoreland Protection Ordinance.

Mr. Jennrich explained to the committee that this Ordinance was sent to the Full County Board and it was approved as it was. The County Board basically sent it back to the P & Z Committee to make modification to 9.55 to address some of the concerns, which were raised at the time of discussion. A month ago the P & Z staff came to the P & Z Committee to discuss this issue and had the chance to discuss some of Attorney Todd McEldowny's concerns with outside counsel since that time.

Brian Desmond, Assistant Corporation Counsel, "When we last discussed this issue was approximately two, three meetings ago and had Mr. McEldowny, representing Weasels, present at that meeting requesting some changes to the ordinance." "Both myself and Karl did make those changes and today we need your approval of that language." "The first change was at line #349 – which would change the language from ----- word permit be deleted, and Section 9.50 would be changed to 9.55."

MOTION: (Ted Cushing/Scott Holewinski) to approve the changes to the sexually oriented business ordinance as stated by legal counsel on line #349. All "aye" on voice vote, motion carries.

"The other change that Mr. McEldowny and his client requested is Line #574 to insert the language, legal pre-existing uses being able to transfer the ownership of their business and their permit along with that business." "This is sort of an unnecessary change based upon the current case law and statutes here in Wisconsin."

MOTION: (Scott Holewinski/Ted Cushing) to leave line #574 as presented, no changes. All "aye" on voice vote, motion carries.

Mr. Jennrich explained to the committee that this ordinance still needs to go to public hearing.

Brian Desmond, "Originally in the ordinance we had a provision that under the definition of "establishment" , Part E, the establishment of a new sexually oriented business was considered to have taken place if a legal pre-existing sexually oriented business expanded better then 25%." "In the initial stages when working with this ordinance that section was removed at the request of Mr. McEldowny and Mr. Delponte." "At the current point in time the legal pre-existing uses are subject to 9.50, which allows for every legal pre-existing in the County to not expand their use." "There were some issues which were brought up by outside legal counsel about regulating an adult business through a generally applicable ordinance, which could lead to a law suit similar to the Syring matter if you again try to have an adult oriented business of some sort regulated through a normal ordinance provision." "If you wanted to put back in a limit, such as the 25% expansion of the floor space as it exists on the date whenever it is enacted you would have justification and made a good record about why you wanted to do that, you'd have justification in that regard if someone wanted to try to challenge you by giving legal pre-existing adult uses to 25% as opposed to all the other legal pre-existing uses based again on the fact that, these are first amendment type businesses, they're given special regulations, different restrictions based upon their nature as adult oriented businesses."

Mr. Karl Jennrich, "The only thing that Mr. Delponte might not be happy about is that he would have to get a permit from the P & Z Department to expand if he went above and beyond the 25%."

MOTION: (Larry Greschner/Ted Cushing) to add in line #278 and #279 to put back in the ordinance, the 25% expansion of the floor space as it exists on the date whenever it was enacted. All "aye" on voice vote, motion carries.

Discussion/decision involving amendments to Chapter 13, POWTS Ordinance within Oneida County General Code of Ordinances.

Mr. Jennrich explained to the committee that he received comments from the Wisconsin Department of Commerce and made some adjustments on behalf of the WIDC through the POWTS ordinance and then the WI Dept. of Commerce came back again on March 29, 2006 and a letter dated 4/3/06 and made some other changes. Mr. Jennrich went over the changes and comments with the committee.

MOTION: (Scott Holewinski/Larry Greschner) to approve language change, send to Corporation Counsel, Larry Heath and a carbon copy to Brian Desmond, Assistant Corporation Counsel and bring back on May 3, 2006. All "aye" on voice vote, motion carries.

Discussion/decision involving amendments to Section 9.54(c) Communication Structures within the Oneida County Zoning & Shoreland Protection Ordinance.

Committee suggested to Mr. Jennrich to put on next or future agenda and ask that Mr. Elmer Goetsch attend.

Discussion/decision involving amendments to Section 9.83 Composition of Board of Adjustment/Jurisdiction within the Oneida County Zoning & Shoreland Protection Ordinance.

Mr. Jennrich presents to the committee draft 3-15-06 9.83 COMPOSITION OF BOARD OF ADJUSTMENT/JURISDICTION with additions, which are not in the County Code language. EXHIBIT # 1.

MOTION: (Ted Cushing/Scott Holewinski) to approve language the changes to 9.83 COMPOSITION OF BOARD OF ADJUSTMENT/JURISDICTION, Item #12 on today's agenda and send on to Public Hearing. All "aye" on voice vote, motion carries.

Discussion/decision involving Ordinance Amendment #01-2006 authored by the Planning & Zoning Committee to eliminate Section 9.98 entirely and amend Section 9.94 & 9.99 of the Oneida County Zoning & Shoreland Protection Ordinance. A public hearing was held March 15, 2006 on this item.

Mr. Jennrich explained to the committee that the resolution, which was presented to the County Board for review and signatures only included Section 9.98 and neither 9.94 nor 9.99 were on that resolution. Therefore, Mr. Jennrich telephoned Chair Gary Baier and asked what he wanted to do and the resolution was pulled from the county board floor. The resolution, which is being brought back to the P & Z Committee, must be signed so it can be forwarded unto the Full County Board in May, 2006 at their May 16, 2006 meeting.

Discussion took place as to why 9.98 was being eliminated.

Mr. Larry Greschner, "The DNR oversees the pier rule and Mr. Gary Baier kept saying that our ordinance is redundant, but it does not." "Just one example, State Law allows four berths per dock, our ordinance only allows two berths per dock, so it does not mirror it at this point."

Mr. Jennrich, "As far as department staff, we really never had an issue with it and as far as administration, it wasn't that big of a deal to administer."

Mr. Jennrich, "There was a documentation in the white binder, which is given out by the Department of Natural Resources, and there must be another six other counties who regulate piers, six out of seventy-two."

MOTION: (Larry Greschner/Scott Holewinski) to postpone until Mr. Frank Greb is in attendance and table. All "aye" on voice vote, motion carries. (Waiting for the DNR-Chapter 30)

Discussion/decision involving Ordinance Amendment #02-2006 authored by the Planning & Zoning Committee to amend Section 9.94 & 9.96 of the Oneida County Zoning & Shoreland Protection Ordinance. A public hearing was held March 15, 2006 on this item.

This public hearing was held when only two Planning & Zoning Committee members were present. This is why this was held off for a decision.

Mr. Jennrich stated that the committee signed off on it and it was sent over to Corporation Counsel and Counsel had some concerns.

Mr. Pete Wegner forwarded a memo to the Planning & Zoning Committee regarding the language and some concerns which he was being advised verbally by the DNR. In the time that the committee members received the memo and when it was actually discussed at a meeting Mr. Wegner received a letter from the DNR basically giving the department a clean bill of health in the language. Since then no letter was received from Mr. Larry Heath, Corporate Counsel, with comments very similar to those that Mr. Wegner received verbally from the DNR. Mr. Wegner suggested that the committee go over some of the concerns and then maybe make minor changes based on those concerns.

One concern, which Mr. Heath has, is that the department obtains written approval from Mr. Tom Blake, DNR regarding that the proposed language is acceptable. Other concerns Mr. Heath had were some minor word changes.

More discussion took place. NOTE: Mr. Thomas Blake has not commented on Mr. Heath's concerns.

Mr. Pete Wegner will request that the DNR send a letter with their comments specifically to Mr. Larry Heath's concerns.

MOTION: (Scott Holewinski/Ted Cushing) to postpone Ordinance Amendment #02-2006 until a written response is received from the Department of Natural Resources preferably by the next P & Z meeting date scheduled for May 3, 2006. All "aye" on voice vote, motion carries.

Discussion/decision concerning the Zoning Technician/Permit Specialist Position.

MOTION: (Ted Cushing/Scott Holewinski) to recommend that Karl Jennrich proceed with filling the Zoning Technician/Permit Specialist position by sending a request to LRES. All "aye" on voice vote, motion carries.

Departmental operations/activities & status. NOTHING

Committee recessed at 2:22 p.m. for the Public Hearing.

Committee reconvened at 5:52 p.m. to continue with the Regular meeting.

Discussion/decision of line item transfers, refunds, purchase orders and bills.

Karl Jennrich, Zoning Director, noted the following Submittals for Payment (Exhibit #2) Mileage for \$703.55

MOTION: (Ted Cushing/Scott Holewinski) to approve the bills as presented. All "aye" on voice vote, motion carries.

Mr. Jennrich presented to the committee statistics through March 2006. (EXHIBIT #3)

Discussion/action concerning pending Ordinance Amendment and/or Resolution proposals scheduled for the County Board of Supervisors.

Mr. Jennrich explained that the department has a report to the Oneida County Board of Supervisors regarding the Farb rezone petition being denied. Mr. Jennrich read the resolution proposal to the committee.

Neither Larry Greschner or Chair Metropulos can sign the resolution. Both Scott Holewinski and Ted Cushing signed the resolution and will wait until Mr. Greb comes back to sign.

MOTION: (Scott Holewinski/Ted Cushing) to forward on to the Full County Board. Scott Holewinski “aye”, Ted Cushing “aye”, Bob Metropulos and Larry Greschner abstain from voting.

There was a question as to Mr. Greschner and Chair Metropulos signing the resolution. Mr. Jennrich will bring back on May 3, 2006 for signatures.

Communications. - NONE

Public comments. - NONE

Discussion/decision regarding future agenda items.

Adjourn.

5:58 PM There being no further matters to lawfully come before the Committee, a motion was made by Ted Cushing, second by Larry Greschner to adjourn the meeting. With all members present voting “aye”, the motion carried.

Chairman Bob Metropulos

Karl Jennrich
Zoning Director